(21)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE MR. VIJAY KUMAR SHRIVASTAVA & HON'BLE MR. DHIRENDRA MISHRA, JJ

MISCELLANEOUS APPEAL [C] NO.670 OF 2006

APPELLANTS

1. Smt. Anita Peters, aged about 45 years, widow of Late Shri Nirmal Peters.
2. Abhinav Peters, aged about 18 years, son of Late Shri Nirmal Peters.

Both residents of Shailendra Apartment, Om Nagar, Jarhabhata, Bilaspur, Tehsil & Distt Bilaspur (C.G.)

Vs.

RESPONDENTS

1. Abdul Meman, son of Rahman, caste-Musalman, resident of Bhunda, Tahsil Kota, District Bilaspur (C.G.)
2. Rajesh Agarwal, son of Satyanarayan Agarwal, aged about 35 years, resident of Main Road Saraipali, Tehsil Saraipali.
3. The Oriental Insurance Company Ltd., High Court Road, Bilaspur, Teh. & Distt. Bilaspur.
4. Ashish Bahal, son of Surendra Singh Bahal, resident of Ward No.02, Vishwanath Colony, Chhattarpur (M.P.)
5. Sardar Nirmal Singh, son of Channan Singh, resident of Ward No.4, Siddh Ganeshan Marg, Chhattarpur (M.P.)
6. United India Insurance Company Ltd., Mendhekar Complex, Rajendra Nagar Chowk, Bilaspur, Tehsil & District Bilaspur
7. Anu Deepak James, son of D. James, resident of Jarhabhata Chowk, P.S. Civil Lines, Bilaspur, Tehsil & District Bilaspur.
8. National Insurance Company Limited, B-1 Taha Complex, Priyadarshini Nagar, Bilaspur, Tehsil & District Bilaspur.

Present : Mr. Gautam Khetrapal, learned counsel for the appellants.

ORAL ORDER

(Passed on 8th February, 2007)

Following oral order of the Court was passed by **Dhirenda Mishra, J**:

This is claimants' appeal against the award dated 3-11-2006 passed in Claim Case No.14/05 by the Additional Motor Accident Claims Tribunal, Bilaspur

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(henceforth "the Tribunal") for enhancement of compensation. Claimant No.1 is mother & No.2 is brother of deceased namely Anurag Peters, aged about 18 years, who died on 5.1.2005 as a result of injuries sustained by him in the motor accident dated 31.12.2004.

2. Learned counsel for the appellants submits that the tribunal even after assessing the age of deceased as 16-18 years and applying the notional income of Rs.15,000/- per annum, has deducted 1/3rd amount from the notional income and accordingly assessed the compensation, which is not in accordance with the law laid down by the Hon'ble Supreme Court in the matter of **Manju Devi and another Versus Musafir Paswan and another** reported in **2005 (1) T.A.C. 609 (SC).**

3. We have heard learned counsel for the appellants and perused the impugned award.

4. The tribunal after considering the notional income of Rs.15,000/- per annum and after deducting 1/3rd amount, which the deceased would have incurred for himself, has assessed the compensation on the basis of dependency @ Rs.10,000/-per annum. The judgment cited by learned counsel for the appellants also mentions that the award of compensation has to be made by applying multiplier method, as given in Schedule-II of Section 163 (A) of the Motor Vehicles Act. From perusal of the above Schedule, it is evident that deduction of 1/3rd amount is required to be made from the earning capacity of the deceased. The claims tribunal applying the method described in the Schedule has assessed the compensation and in our considered opinion the same is strictly in accordance with the law.

7. In the result, the appeal being devoid of substance is dismissed in limine.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Dhirendra Mishra
Judge

Roshan/-